IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 259 OF 2006

Aakash Vishnu Shinde ....Applicant.

V/s

State of Maharashtra ....Respondent.

Mr. K.S. Patil for the applicant.

Ms. S.V. Gajre, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 15th February, 2006

P.C.:

1. Heard the learned Counsel for the applicant and the learned APP for the State.'

2. The applicant was arrested in connection with C.R. No. 361 of 2005 registered at MIDC Police Station, Mumbai for the offence punishable under section 302, 498A of the Indian Penal Code. It is alleged that the applicant killed his wife Dipalee by pouring kerosene on her and setting her ablaze in the bathroom. The applicant was arrested on 15/8/2005.

3. It is submitted that the circumstances on record do not indicate that this is a case of homicidal death. Further, it is submitted that there are

discrepancies and contradictions in the dying declarations on which reliance is placed by the prosecution. It is further submitted that the allegations in the complaint do not disclose any demand of dowry. It is submitted that investigation is complete and the charge-sheet is filed and on this ground it is alleged that the applicant should be released on bail.

4. It is not possible to accept the submissions made by the learned Counsel for the applicant. I have perused both the dying declarations which are recorded in the presence of doctor after endorsement was made by him that the deceased was capable and in a fit state of mind to record the statement. In both the statements, she has stated that the accused had poured kerosene on her and set her on fire. There may be slight discrepancy in the dying declarations. However, it is not a material discrepancy. In the second dying declaration, she has stated that the husband had committed the said act on the instigation of his sister which fact is not mentioned in the first dying declaration which is not a material contradiction. From the material on record, it is difficult to accept the submission of the learned Counsel for the applicant that this is not a case of

homicidal death. Considering the gravity and seriousness of the offence, application for bail is rejected. The applicant, however, is at liberty to apply for bail again if the trial is not over within a reasonable period of time.

5. Application is accordingly disposed of.

V.M. KANADE, J.